

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

QOMMERCE SYSTEMS, LLC,  
Plaintiff,

v.

O'REILLY AUTOMOTIVE, INC.,  
Defendant.

C.A. No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT**

This is an action for patent infringement in which Qommerce Systems, LLC (“Qommerce” or “Plaintiff”) makes the following allegations against O’Reilly Automotive, Inc. (“O’Reilly” or “Defendant”).

**NATURE OF THE ACTION**

1. This is a patent infringement action to stop Defendant’s infringement of United States Patent No. 7,356,606 (the “’606 Patent”) (“the Patent-in-Suit”).

**PARTIES**

1. Plaintiff Qommerce is a Texas limited liability company with its principal place of business at 719 West Front Street, Suite 211 Tyler, Texas 75702.

2. On information and belief, O’Reilly is a Missouri corporation with its principal place of business at 233 South Patterson Avenue, Springfield, Missouri 65802. On information and belief, O’Reilly may be served with process through its registered agent, C T Corporation System, at 120 South Central Avenue, Clayton, Missouri 63105.

### **JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. The Court has personal jurisdiction over Defendant, including because Defendant has minimum contacts within the State of Texas; Defendant has purposely availed itself of the privileges of conducting business in the State of Texas; Defendant regularly conducts business within the State of Texas; and Commerce's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas. Further, Defendant has an interactive website that is accessible from the State of Texas and the Eastern District of Texas.

5. On information and belief, within the State of Texas and the Eastern District of Texas, Defendant has made and/or used the patented invention with the website(s) and functionality identified herein below. In addition, on information and belief, Defendant has derived substantial revenues from its infringing activities within the State of Texas and the Eastern District of Texas.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendant has transacted business in this district, and has committed acts of patent infringement in this district.

### **COUNT 1: INFRINGEMENT OF U.S. PATENT NO. 7,356,606**

7. Plaintiff is the owner by assignment of the '606 Patent entitled "Dynamic Web Storefront Technology" – including all rights to recover for past and future acts of infringement. The '606 Patent was issued on April 8, 2008. A true and correct copy of the '606 Patent is attached as Exhibit A.

8. On information and belief, Defendant has been and now is directly infringing the '606 Patent in this judicial district and elsewhere in the United States. Infringement by Defendant includes, without limitation, making and/or using one or more websites used in conducting commerce over the Internet, including without limitation the website www.oreillyauto.com and associated sub sites, web pages and functionality within that website ("Accused Systems"), infringing at least claim 11 of the '606 Patent. Defendant is thus liable for infringement of the '606 Patent under 35 U.S.C. § 271.

9. Each of Defendant's aforesaid activities has been without authority and/or license from Qommerce.

10. Qommerce is entitled to recover from Defendant the damages sustained by Qommerce as a result of Defendant's wrongful acts in an amount subject to proof at trial, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this court under 35 U.S.C. § 284.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

1. In favor of Plaintiff that Defendant has infringed the '606 Patent;
2. Requiring Defendant to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '606 Patent as provided under 35 U.S.C. § 284; and
3. Granting Plaintiff any and all other relief to which Plaintiff may show itself to be entitled.

**DEMAND FOR JURY TRIAL**

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: March 11, 2015

Respectfully submitted,

By: /s/ Andrew W. Spangler

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